

NOT INTENDED FOR PUBLICATION IN PRINT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

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|------------------------|---|---------------------------|
| PHILADELPHIA INDEMNITY |) | |
| INSURANCE COMPANY, |) | |
| |) | |
| Plaintiff, |) | |
| vs. |) | NO. 1:06-cv-00668-SEB-JMS |
| |) | |
| JOSHUA G. DEAN, |) | |
| CHASE O. BEINEKE, |) | |
| |) | |
| Defendants. |) | |

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

PHILADELPHIA INDEMNITY INSURANCE)
COMPANY,)

Plaintiff,)

vs.)

1:06-cv-00668-SEB-JMS

JOSHUA G. DEAN and)

CHASE O. BEINEKE,)

Defendants.

ENTRY GRANTING CHASE O. BEINEKE’S MOTION TO STAY PROCEEDINGS

This cause is before the Court on the Motion to Dismiss or, in the alternative, Motion to Stay Proceedings [Docket No. 15] filed by Defendant, Chase O. Beineke, pursuant to Federal Rule of Civil Procedure 12(b). For the reasons detailed in this entry, we GRANT Defendant’s Motion to Stay Proceedings.

Factual Background

Prior to May 17, 2005, Developmental Services, Inc. (“DSI”), an Indiana non-profit agency providing respite care and transportation services for disabled persons, employed Joshua Dean (“Dean”), an Indiana resident with an Operator’s License, to provide transportation for a DSI client using a DSI vehicle. Redacted Complaint for Declaratory Judgment ¶¶ 7-10. Plaintiff Philadelphia Indemnity Insurance Company (“Philadelphia”) insured DSI under a Commercial Lines Policy effective July 17, 2004 to July 17, 2005. Id. ¶¶ 19-20.

On May 17, 2005, Dean, while operating a DSI vehicle and transporting a DSI patient, pulled out of a private residential driveway on County Road 150 East, Seymour,

Jackson County, Indiana, and the DSI vehicle collided with a vehicle driven by Defendant Chase O. Beineke. Id. ¶¶ 13-14, 17. Beineke sustained injuries from the collision and filed a lawsuit in Jackson Superior Court on October 13, 2005 against Dean, DSI, and the owners of the private residence and residential driveway—Bart and Mary Stuckwisch—from which Dean pulled into the road. Id. ¶¶ 17-18. Beineke’s Complaint alleges that Dean caused injury to Beineke and DSI was negligent in failing to provide proper supervision to Dean. Redacted Complaint for Declaratory Judgment Ex. A (Complaint for Damages ¶¶ 7-8).

On April 26, 2006, Philadelphia commenced the instant federal action by filing a Complaint for Declaratory Judgment against Dean and Beineke, seeking a declaration that it has no duty to defend Dean nor a duty to indemnify him with respect to Beineke’s claim because Dean’s use of the DSI vehicle was without the permission of DSI. Redacted Complaint for Declaratory Judgment at 5-6.

On June 22, 2006, Beineke filed an Amended Complaint in the state court action which added Philadelphia as a defendant and included a new count for declaratory judgment, seeking declaration that Philadelphia’s insurance coverage of DSI is valid and Philadelphia will be required to pay Beineke any award of damages against DSI and/or Dean under the insurance policy. Motion to Dismiss Ex. A (Amended Complaint). Beineke also sought declaration that any other insurance policies purchased by any Defendant covering the accident in question are valid. Id.

On June 28, 2006, Beineke filed this Motion to Dismiss or in the alternative Motion to Stay Proceedings. Beineke contends that Philadelphia’s Complaint for Declaratory Judgment

should be dismissed or stayed until the state court claim is resolved. We now rule on this motion.

Legal Analysis

I. *Abstention*

Under the Declaratory Judgment Act, district courts “may declare the rights and other legal relations of any interested party seeking such declaration.” 28 U.S.C. § 2201(a) (2005). The Supreme Court has made clear that the authority granted under the Declaratory Judgment Act gives district courts discretion to abstain from hearing a declaratory judgment action in deference to a pending, parallel state court proceeding. Wilton v. Seven Falls Co., 515 U.S. 277, 282 (1995) (citing Brillhart v. Excess Ins. Co. of America, 316 U.S. 491 (1942)). In addressing the inquiry district courts should undertake in an exercise of this discretion, the Court noted the following factors (though not an exclusive list):

In deciding whether to enter a stay, a district court should examine “the scope of the pending state court proceeding and the nature of defenses open there.” This inquiry, in turn, entails consideration of “whether the claims of all parties in interest can satisfactorily be adjudicated in that proceeding, whether necessary parties have been joined, whether such parties are amenable to process in that proceeding, etc.” [W]here another suit involving the same parties and presenting opportunity for ventilation of the same state law issues is pending in state court, a district court might be indulging in “gratuitous interference” if it permitted the federal declaratory action to proceed.

Id. at 283 (citing Brillhart, 316 U.S. at 49). See Sta-Rite Industries, Inc. V. Allstate Ins. Co., 96 F.3d 281, 287 (7th Cir. 1996); Olcott International & Co. v. Micro Data Base Systems, Inc., 2000 WL 892874 (S.D. Ind. 2000).

In exercising its discretion to declare the parties' rights under an insurance contract in Pence v. Lightning Rod Mut. Ins. Co., 203 F.Supp.2d 1025 (S.D. Ind. 2002), this Court applied the Wilton criteria and elected to abstain based on the following factors: (1) the same parties were involved in a key issue for both the state court claim and the federal court claim, resulting in a federal court declaratory judgment action that was mirrored by the state court declaratory judgment action; (2) the central issue between the parties was a matter of state law; (3) having the declaratory judgment action pending in two courts raised the potential for conflicting outcomes; (4) the outcome of the declaratory judgment action was likely to have substantial impact on the outcome of one or more other claims; and, (5) all parties pertinent to a full adjudication of the claims were joined in the state court action. Id. at 1029.

II. *Beineke's Motion to Dismiss or Stay Proceedings*

Beineke contends that Philadelphia's Complaint for Declaratory Judgment should be dismissed or stayed in deference to Beineke's state court claim. Analogizing this case to Pence, Beineke claims that application of the Wilton criteria militate in favor of abstention in this case, and offers the following evidence in support of this contention: (1) since Philadelphia has been joined in Beineke's state claim through the filing of the Amended Complaint, Philadelphia has another forum in which its declaratory judgment action can be heard; (2) Philadelphia failed to join necessary parties, including DSI, in this suit; (3) any conflict between Philadelphia and its insured is a matter of state law; (4) with declaratory judgment actions pending in two forums, there is now a potential for conflicting outcomes; and (5) it appears all necessary parties have been joined in the state action, providing the state court opportunity to make a full adjudication

of all claims on the merits. Memorandum in Support of Motion To Dismiss or Motion For Stay at 5-6.

Philadelphia replies that Beineke's Motion to Dismiss should be denied for three reasons: (1) characterizing its Complaint for Declaratory Judgment as restricted to the issue of insurance coverage of Dean, Philadelphia contends that all necessary parties have been joined to the action; (2) any risk of conflicting outcomes from the separate state and federal claims was created by Beineke's amendment joining Philadelphia to the state claim; and, (3) Philadelphia's federal insurance coverage claim is separate and distinct from the state tort claim; accordingly, Philadelphia argues that its declaratory judgment claim will have no impact on Beineke's state claim, and vice versa. Brief in Opposition to Motion to Dismiss or Stay Proceedings at 2-3.

Permitting Philadelphia's federal court claim to proceed while Beineke's state court claim is pending risks the type of "gratuitous interference" the Supreme Court warned of in Wilton. Wilton, 515 U.S. at 283 (citing Brillhart, 316 U.S. at 49). The underlying issue that has brought Beineke and Philadelphia into court is Beineke's state court tort claim for damages. The matters of insurance coverage that are at the core of Philadelphia's declaratory judgment claim are important and closely linked to resolution of the underlying negligence claim brought properly in state court. Philadelphia's argument that its declaratory judgment claim involves issues separate and distinct from the state court claim is not convincing. Pence involved separate claims against homebuilders and against an insurance company. In addressing the Pences' argument opposing the motion to dismiss because the claims were different, the court noted that "the Pences were surely correct in arguing that the issues before this court were independent of, and separable from, the issues before the [state] court. . . . But that fact has little if any influence

on our decision.” Pence, 203 F.Supp.2d at 1028 n. 3. All interested parties have apparently been joined now in the state court claim. The claims involve matters of state law, exclusively. As in Pence, “in the interests of economy to both of the courts and to the parties, in the interest of avoiding piece-meal litigation with potentially conflicting outcomes, and in the interest of avoiding intruding on a state court’s exercise of jurisdiction over matters of state law,” (id. at 1027), abstention is appropriate in this case.

A stay of the proceedings is preferred over an outright dismissal because “where the basis for declining to proceed is the pendency of a state proceeding, a stay will often be the preferable course, because it assures that the federal action can proceed without risk of a time bar if the state case, for any reason, fails to resolve the matter in controversy.” Pence, 203 F.Supp.2d at 1029 (citing Wilton, 515 U.S. at 288 n.2).

Accordingly, Defendant’s Motion to Stay Proceedings is GRANTED and the parties are ordered to show cause within fifteen (15) days why this case should not be closed administratively on this court’s docket pending a resolution of the state litigation and subject to being re-opened at that time upon motion of any party. IT IS SO ORDERED.

Date: _____

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